

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY COLBURN, et al.,

Defendants.

Case No. 1:19-cr-10080-NMG

**DEFENDANTS' MOTION IN LIMINE TO REQUIRE THE GOVERNMENT TO
PROFFER ITS CORROBORATING EVIDENCE OF THE ALLEGED CONSPIRACY
UNDER PETROZZIELLO**

Pursuant to the Court's Scheduling Order, Defendants hereby move this Court to require the government, by proffer, to detail forthwith its corroborating non-hearsay evidence, as required under *United States v. Petrozziello*, and to demonstrate before trial both (1) how it intends to satisfy its burden of proving the single conspiracy alleged in the Indictment, and (2) how it intends to show that the out-of-court statements in its proposed exhibits, and any similar statements that may be related at trial by its witnesses, were made in furtherance of that conspiracy. For the reasons set forth in the accompanying memorandum of law, Defendants respectfully request that the Court require such a pre-trial proffer to avoid the substantial risk of a mistrial should the government be unable to satisfy the requirements for admission of such evidence under Federal Rule of Evidence 801(d)(2)(E). Defendants reserve the right to renew this motion (or raise similar objections) as to specific evidence that the government seeks to introduce at trial.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rules 7.1(d) and 112.1, Defendants respectfully request oral argument on this motion.

Respectfully submitted,

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LOCAL RULE 7.1 CERTIFICATION

Undersigned counsel certifies that, on July 28, 2021, counsel for Defendant Elisabeth Kimmel conferred with counsel for the government, and the government does not assent to the Motion.

CERTIFICATE OF SERVICE

I, Cory S. Flashner, counsel for Defendant Elisabeth Kimmel, hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF, and paper copies will be sent to those indicated as non-registered participants.

/s/ Cory S. Flashner
Cory S. Flashner